

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: DECEMBER 21, 2005

Division: TDC

Bulk Item: Yes X No

Department:

Staff Contact Person: Maxine Pacini

AGENDA ITEM WORDING:

Approval of an Amendment to Agreement with The Key West Pops, Inc. covering the revised dates of the Key West Pops Orchestra between October 2005 and March 2006 in an amount not to exceed \$8,760, FY 2006 Two Penny Cultural Umbrella Resources.

ITEM BACKGROUND:

PREVIOUS RELEVANT BOCC ACTION:

CONTRACT/AGREEMENT CHANGES:

Amendment to Agreement

STAFF RECOMMENDATIONS:

Approval

TOTAL COST: \$8,760

BUDGETED: Yes X No


COST TO COUNTY: \$8,760

SOURCE OF FUNDS: TDC

REVENUE PRODUCING: Yes X No **AMOUNT PER MONTH** **Year**

APPROVED BY: County Atty X OMB/Purchasing X Risk Management X

DIVISION DIRECTOR APPROVAL:


(Lynda Stuart)

DOCUMENTATION: Included X Not Required

DISPOSITION:

AGENDA ITEM #

CONTRACT SUMMARY

for BOCC meeting on 12/21/05 Agenda Deadline: 12/6/05

11-08-2005 09:38pm From:TOURIST DEVELOPMENT COUNCIL

T-393 P 002/002 F-362



The Key West Pops Orchestra

Vincent P. Zito
Artistic Director
& Founder

P.O. Box 6206
Key West, FL 33041-6206

Phone: (305) 295-7501
Toll Free: (877) 312-1800
Fax: (305) 294-7095
www.keywestpops.com

501 (c) (3) Non Profit
EIN #65-060786

BOARD OF DIRECTORS

Dr. Paul Zito
Chairman Emeritus

George Fernandez
Past President

Phyllis May
President

Mary Ann Worth
Vice President

Joe Viana
Treasurer

Karen Taporowski
Secretary

Vicki Grant
Dr. Bryan Green
Norma Mollica
Randy Roberts
Nancy Robinson
Vera Schiff
Hon. Lurana Snow
Vince Taporowski
Gerry Tinlin
Sam Trophla
Marilyn VanderVeen
Ken Weschler
Maria Zito-Kaufman

ADVISORY BOARD

Shirley Block
Leo Brewer

October 28, 2005

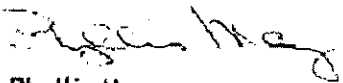
To TDC:

The Key West Pops Orchestra had an event scheduled for Saturday, October 22...the Singalong Wizard of Oz. Due to Hurricane Wilma's approach and the mandatory evacuation, we had to postpone that event.

We have now rescheduled the event for Sunday, November 6.

Also, I'm not sure what our grant proposal says and if it has been amended but the location for our concert on Dec. 4 and March 5 is at KWH5 Auditorium and our January 15 event will now be at San Carlos Institute due to the damage at TWT.

Sincerely,



Phyllis May
President

AMENDMENT TO AGREEMENT

THIS ADDENDUM to agreement is made and entered into this ____ day of ____ 2005, between the County of Monroe and The Key West Pops, Inc.

WHEREAS, there was an agreement entered into on October 19, 2005, between the parties, awarding \$8,760 to The Key West Pops, Inc. for the production of the Key West Pops Orchestra between October 2005 and March 2006, and

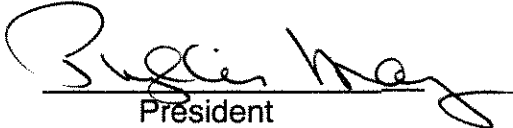
WHEREAS, it has become necessary to revise the dates of the individual events for the Key West Pops Orchestra;

NOW, THEREFORE, in consideration of the mutual covenants contained herein the parties agree to the amended agreement as follows:

1. Exhibit A has been revised and attached hereto with revised dates of events.
2. The remaining provisions of the contract dated October 19, 2005 remain in full force and effect.

IN WITNESS WHEREOF, the parties have set their hands and seal on the day and year first above written.

The Key West Pops, Inc.


President

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY
COMMISSIONERS OF
MONROE COUNTY, FLORIDA

Deputy Clerk

Mayor/Chairman

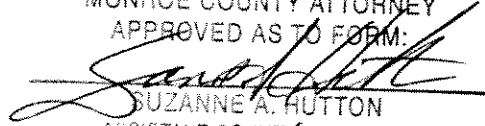
MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

SUZANNE A. HUTTON
ASSISTANT COUNTY ATTORNEY
Date: 11/18/05

EXHIBIT A

MONROE COUNTY TOURIST DEVELOPMENT COUNCIL CULTURAL UMBRELLA SCHEDULE OF EVENTS

FISCAL YEAR 2008

EVENT NAME: The Key West Pops Orchestra

List scheduled event activities in date order. If pre-promotion is included, indicate the event dates of the next season. If funded, funds will be reimbursed only for the promotion of event activities listed here.

November 6, 2006 at the Tropic Cinema

Sing Along with "The Wizard of Oz"

Held at the Tropic Cinema, the audience will be encouraged to come in "costumes" from the movie. Timing: the start of 2005 Fantasy Fest activities. Concert includes a showing of the original movie with Judy Garland, with a bouncing ball and lyrics for each song, so the audience can sing along.

December 4, 2005 at the Key West High School Auditorium

"A Night of Gershwin"

A super-size 51-piece orchestra will do proud justice to George Gershwin's classic music—including a performance of the brilliant Gershwin Concerto in F for Piano and Orchestra, with piano soloist from New York.

January 15, 2006 at the San Carlos Institute

"Direct from Broadway: Lee Roy Reams and Friends"

The ever-popular Lee Roy Reams will be joined by three other top-notch soloists, celebrated colleagues from the Broadway stage, singing hits from past and present Broadway shows.

March 6, 2006 at the Key West High School Auditorium

"Hello Dolly" In Concert

A Key West favorite, Suzie Speidel, will star in the irresistible Broadway masterpieces, performed by a 26-piece orchestra and a cast featuring leading Key West performers and members of the Keys Chorale.

FUNDING AGREEMENT

THIS AGREEMENT is made and entered into by and between the Board of County Commissioners of Monroe County, Florida, (hereinafter referred to as the "County") and The Key West Pops, Inc.. (Hereinafter referred to as "Event Sponsor");

WHEREAS, the umbrella organization under contract to the County has recommended to the Monroe County Tourist Development Council (hereinafter "TDC"), which has endorsed the recommendation, that certain monies be allocated for promotion of an event;

NOW THEREFORE; in consideration of the mutual promises contained herein, the parties agree as follows:

1. County shall pay a sum not to exceed \$8,760 (Eight Thousand Seven Hundred and Sixty Dollars) for promotion and related expenditures effective October 1, 2005, as described in the event budget, attached hereto as Exhibit B, for production of the Key West Pops Orchestra between October 2005 and March 2006. Payment will be made only after Event Sponsor submits invoices and support documentation acceptable to the County's Finance Department. The advertising and promotion budget for County funding may be altered as to the individual line items, or components, within 10% of the amount stated for that item or component, without increasing the total dollar amount and without requiring a written amendment to this agreement. The general non-allocated section of an Umbrella event budget may be utilized for unforeseen permissible expenditures and for those budget lines that may require additional funds. Monroe County's performance and obligation to pay under this agreement is contingent upon an annual appropriation by the County.
2. Event Sponsor shall provide promotion and related services as described in the Sponsor's application for funding, Exhibit A, attached hereto. All advertising and public relations services or supervision of advertising and public relations will be provided through the contracted agencies of the TDC and County. The agencies of record, shall receive payment of work in progress upon submission of documented invoices associated with said event. Event sponsor fully understands that funding is obtained from tourist development taxes for which the fiscal year ends September 30, 2006. Event sponsor also understands that the funding process through which this contract was made available by County requires event sponsors to submit their payment requests as quickly as possible and to finalize all such requests before the end of the fiscal year, if at all possible. In order for the tourist development taxes to be utilized most effectively for the purpose for which they were authorized, attracting and promoting tourism, the budgeting process of the County requires the event's funding to be concluded in a timely manner. In recognition that the timeliness of payment requests is of extreme importance to the funding of future advertising and promotion for the stability of the tourist-based economy, Event Sponsor agrees to submit by September 30, 2006 all invoices and support documentation as required by the County's Finance Department rules and policies. Event Sponsor shall not be reimbursed nor will Event Sponsor's vendors be paid directly for any invoices received by the County after September 30, 2006.

3. Event Sponsor shall reimburse County for any amount of funds expended by County in connection with an event which does not occur as a result of any act or omission by Event Sponsor.

4. Event Sponsor covenants and agrees to indemnify and hold harmless Monroe County Board of County Commissioners from any and all claims for bodily injury (including death), personal injury, and property damage (including property owned by Monroe County) and any other losses, damages, and expenses (including attorney's fees) which arise out of, in connection with, or by reason of the services provided, event sponsored, or other activities and funding associated with this agreement. Should event involve the serving or distribution of alcoholic beverages, Event Sponsor shall obtain prior to the event a Liquor Liability insurance policy naming Monroe County as a co-insured.

5. Event Sponsor shall maintain records pursuant to generally accepted accounting principles for three (3) years after the event and shall permit County and its agents and employees access to said records at reasonable times.

6. County may terminate this agreement without cause upon providing written notice to Event Sponsor no less than sixty (60) days prior to the event and may terminate for breach upon providing to Event Sponsor notice at least seven (7) days prior to the effective date of the termination.

7. Event sponsor is an independent contractor and shall disclose any potential conflicts of interest as defined by Florida Statutes, Chapter 112 and Monroe County Code, Article XXI.

8. Event Sponsor warrants that he/she/it has not employed, retained or otherwise had act on his/her/its behalf any former County officer or employee in violation of Section 2 or Ordinance No. 10-1990 or any County officer or employee in violation of Section 3 of Ordinance No. 10-1990. For breach or violation of the provision the County may, at its discretion terminate this contract without liability and may also, at its discretion, deduct from the contract or purchase price, or otherwise recover, the full amount of any fee, commission, percentage, gift, or consideration paid to the former or present County officer or employee.

9. A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

10. Logo: All promotional literature and advertising must display the "The Florida Keys & Key West, Monroe County Tourist Development Council, *Come as You Are*",

logo/trade mark adopted by the TDC and County on November, 2000 (as per attached). **Radio Advertising should read** "Brought to you by the Monroe County Tourist Development Council". No reimbursement or direct payment will be considered unless this logo/trade mark is utilized.

11. Insurance Requirements: Event Sponsor, as a pre-requisite of the Special Event governed by this agreement, shall obtain, at its own expense, insurance as specified in this section.

Event Sponsor will not be permitted to commence work associated with the Event (including pre-staging of personnel and material) until satisfactory evidence of the required insurance has been furnished to the county as specified below. Event Sponsor shall maintain the required insurance throughout the entire duration of the Special Event and any extensions specified in any attached schedules. Failure to comply with this provision may result in the immediate suspension of the Event until the required insurance has been reinstated or replaced. Event Sponsor shall provide, to the County, as satisfactory evidence of the required insurance, either:

- * Certificate of Insurance

or

- * Certified copy of the actual insurance policy

A certified copy of any or all insurance policies required by this contract shall be filed with the Clerk of the BOCC prior to the Event.

All insurance policies must specify that they are not subject to cancellation, non-renewal, material change or reduction in coverage unless a minimum of thirty (30) days prior notification is given to the County by the insurer.

Acceptance and/or approval of Event Sponsor's insurance shall not be construed as relieving Event Sponsor from any liability or obligation assumed under this contract or imposed by law.

The Monroe County Board of County Commissioners, its employees and officials will be included as "Additional Insured" on all policies.

Any deviations from these General Insurance Requirements must be requested in writing on the County form titled "Request for Waiver of Insurance Requirements" and must be approved by Monroe County Risk Management.

Event Sponsor shall furnish the County with a certificate evidencing the insurance required by this paragraph not later than twenty (20) days prior to the event.

Prior to commencement of work governed by this contract, Event Sponsor shall obtain General Liability Insurance. Coverage shall be maintained through out the life of the contract and include, as a minimum:

- * Premises Operations
- * Products and Completed Operations
- * Blanket contractual Liability
- * Personal Injury Liability
- * Expanded Definition of Property Damage

The minimum limits acceptable shall be:

- * \$1,000,000.00 combined Single Limit (CSL)

If split limits are provided, the minimum limits acceptable shall be:

- * \$500,000.00 per person

- * \$1,000,000.00 per Occurrence
- * \$100,000.00 Property Damage

An Occurrence Form policy is preferred. If coverage is provided on a Claims Made policy, its provisions should include coverage for claims filed on or after the effective date of this contract. In addition, the period for which claims may be reported should extend for a minimum of twelve (12) months following the acceptance of work by the County. Recognizing that the work governed by this contract involves the sales and/or distribution of alcoholic beverages, the Contractor's General Liability Insurance policy shall include Liquor Liability with limits equal to those of the basic coverage.

A separate Liquor Liability policy is acceptable if the coverage is not more restrictive than the contractor's General Liability policy.

IN WITNESS WHEREOF, each party has caused this Agreement to be executed by its duly authorized representative, the 19th day of October, 2005.

(SEAL)

Attest: Danny L. Kolhage, Clerk

Debbie DeSantis
Deputy Clerk

Board of County Commissioners
of Monroe County

W. J. M. Spivey
Mayor/Chairman

(CORPORATE SEAL)

Attest:

By _____
Secretary

OR _____

Witness

The Key West Pops, Inc.

By *Ruffin May*
President

Ruffin May

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

Suzanne A. Hutton
SUZANNE A. HUTTON
ASSISTANT COUNTY ATTORNEY
Date 7/15/05

EXHIBIT A

D.

MONROE COUNTY TOURIST DEVELOPMENT COUNCIL CULTURAL UMBRELLA SCHEDULE OF EVENTS

FISCAL YEAR 2006

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EXHIBIT B

MONROE COUNTY TOURIST DEVELOPMENT COUNCIL CULTURAL UMBRELLA EVENT FUNDS BUDGET BREAKDOWN

FISCAL YEAR 2005

EVENT NAME: KEY WEST POPS ORCHESTRA

MEDIA ADVERTISING	\$ 5,000
BROCHURES, POSTERS, PROGRAMS	\$ 2,300
DIRECT MAIL & POSTAGE	\$ 200
PHOTO PROGRAM	\$ -
PUBLIC RELATIONS	\$ 500
PROMOTIONAL ITEMS (T-SHIRTS, CAPS, JACKETS, ETC.)	\$ -
MISCELLANEOUS*	<u>\$ 760</u>

TOTAL: \$ 8,760

*MISCELLANEOUS MAY NOT EXCEED 15% OF THE ABOVE BUDGET

ACTUAL EXPENDITURES MAY DEVIATE NO MORE THAN 10% FROM THIS BUDGET.

THE MAXIMUM REQUEST IS \$25,000.00.

FUNDS ARE PAID ON A REIMBURSEMENT BASIS.

ALL PRINT AND TELEVISION MATERIALS MUST DISPLAY THE CURRENT TDC LOGO

ALL BROADCAST ADVERTISING PLACED OUTSIDE MONROE COUNTY MUST INCLUDE THE
"SPONSORED IN PART BY THE FLORIDA KEYS AND KEY WEST, MONROE COUNTY TOURIST
DEVELOPMENT COUNCIL."

IF FUNDED, EXHIBITS A AND B WILL BECOME PART OF YOUR CONTRACT AND TRANSFER TO THE
OFFICE OF THE CLERK OF THE COURT.

MONROE COUNTY, FLORIDA

Request For Waiver
of
Insurance Requirements

It is requested that the insurance requirements, as specified in the County's Schedule of Insurance Requirements, be waived or modified on the following contract.

Contractor: See Event Attachment THE KEY WEST POPPS, INC.

Name of Entity: _____

Name of Event: KEY WEST POPPS ORCHESTRA

Contract for: Services

Address of Contractor: C/O TDC Att: Maxine

Phone: 305-296-1552

Scope of Work: Advertising and Promotion

Reason for Waiver: Providing funds to promote event only... Minimal exposure to county

Policies Waiver will
apply to: See Attached

Signature of Contractor: [Signature]

Approved [Signature]

Not Approved _____

Risk Management: [Signature]

Date: 7-25-05

County Administrator Appeal:

Approved _____

Not Approved _____

Date: _____

Board of County Commissioners Appeal:

Approved _____

Not Approved _____

Meeting Date: _____